

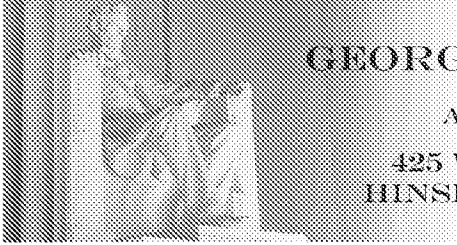
ESTTA Tracking number: **ESTTA409212**

Filing date: **05/14/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052197
Party	Plaintiff Terri Yenko Gould, Executor
Correspondence Address	George E. Bullwinkel 425 Woodside Avenue Hinsdale, IL 60521 UNITED STATES geb@bullwinkel.com
Submission	Testimony For Plaintiff
Filer's Name	George E. Bullwinkel
Filer's e-mail	geb@bullwinkel.com
Signature	/George E. Bullwinkel/
Date	05/14/2011
Attachments	27. Revell '69 YENKO Camaro.tiff ( 1 page )(5056260 bytes ) 28. GEB letter to Revell 02-12-2010b.pdf ( 2 pages )(111943 bytes ) 29. Revell claim of license b.pdf ( 7 pages )(550984 bytes ) 30. Supercar Assignment.pdf ( 1 page )(505753 bytes )





GEORGE E. BULLWINKEL

ATTORNEY AT LAW

425 WOODSIDE AVENUE  
HINSDALE, ILLINOIS 60521

February 12, 2010

Kathleen A. Chyna, Registered Agent  
Revell, Inc.  
191 N. Wacker Drive, Ste 3700  
Chicago, Illinois 60606

Re: YENKO Trademark

Dear Director:

I represent the estate and heirs of Donald Frank Yenke, who passed away on March 5, 1987. You are undoubtedly aware of his reputation and fame as a constructor of unique high-performance YENKO brand automobiles.

I has come to my attention that your company makes and sells at least two 1:25 scale "YENKO" plastic model automobile kits, one of which (SKU No. 85-4237). On the face of the box, and on each end panel, is the following legend: '**69 Chevy® Nova™ "Yenke™"**'. On one side panel is the statement: "**Yenke™ used under license to Revell Inc.**"

My clients are unaware of any license or permission given to Revell, or to any other maker of replicas or models of YENKO brand automobiles, Don to use the name and mark YENKO. Please contact me at your earliest convenience to discuss this matter.

Sincerely,

GEB/gb

cc: Revell, Inc.  
1850 Howard Street, Unit A  
Elk Grove Village, IL 60007

Revell-Monogram, Inc.  
8601 Waukegan Road  
Morton Grove, Illinois 60053

Telephone 630 418 2273

eFax 630 214 3210 eMail geb@bullwinkel.com

February 12, 2010  
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March 9, 2010

**Via Email and U.S. Mail**

Mr. George E. Bullwinkel  
Attorney at Law  
425 Woodside Avenue  
Hinsdale, IL 60521

**Re: Revell, Inc. - YENKO trademark**

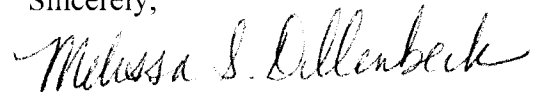
Dear Mr. Bullwinkel:

We represent Revell, Inc. in intellectual property matters. Your February 12, 2010 letter to Kathleen Chyna regarding Revell's use of the YENKO trademark was forwarded to my attention.

You inquired as to whether Revell had a valid license to use the YENKO trademark. We note that Supercar Collectibles, Ltd. is listed as the current owner of the YENKO trademark registration (Reg. No. 2,049,857) with the U.S. Patent and Trademark Office. Revell entered into a license agreement on April 19, 2004, with Supercar Collectibles, Ltd. to sell products under the YENKO trademark. This agreement has since been renewed several times, and the most recent renewal, dated October 10, 2008, extends the term of the license agreement through December 31, 2010. Copies of the original agreement and the 2008 renewal are enclosed for your reference.

Please contact me with any further questions.

Sincerely,



Melissa S. Dillenbeck

Enclosures

cc: Ms. Christina Chacon  
Edwin A. Getz, Esq.  
25465197v1

**REVELL-MONOGRAM, LLC**

725 Landwehr Rd.

Northbrook IL. 60062

Phone: (847) 770-6100

Fax: (847) 562-0326



April 19, 2004

Supercar Collectibles, Ltd  
11760 Justen Circle – Unit E  
Maple Grove, MN 55369

This contract, when signed by Supercar Collectibles, Ltd, 11760 Justen Circle – Unit E, Maple Grove, MN 55369 ("Licensor"); and Revell-Monogram, LLC, 725 Landwehr Rd, Northbrook, IL 60062 (together with its affiliated, associated, and subsidiary companies is collectively referred to as "Licensee"), shall constitute an agreement to permit the manufacture and sale of property as defined below.

- 1.) **GRANT OF RIGHTS:** Subject to the terms and conditions hereof, Licensor grants to Licensee the right to use the Property, as defined below, in connection with the manufacture, sale, advertising and distribution of the Licensed Product during the term.
- 2.) **DEFINITIONS:**
  - a.) For the purposes of this agreement, the term "Property" shall mean the Yenko Camaro, specifically approved by Licensor during the term of the Agreement.
  - b.) For the purposes of this agreement, the term "Licensed Products" shall mean all unassembled model hobby kits.
- 3.) **TERM:**

For the purpose of this agreement, the term shall commence on the date January 1, 2004 and shall continue without interruption through December 31, 2005. Thereafter, the Agreement may be renewed for additional periods of one (1) year if agreed to in writing by both parties no later than September 30th of the year of expiration on the same terms and conditions as contained herein, unless either party notifies the other party in writing prior to the September 30th date indicated above.
- 4.) **TERRITORY:** The territory for this agreement is worldwide.

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6.) **TRADEMARK; COPYRIGHT; PATENT:**

a.) Licenser confirms that this contract constitutes a non-exclusive agreement to reproduce the actual referenced car in scale model form, and grants to the Licensee the right to use all marks depicted on the actual vehicle during the Term. Licensee has the right to depict the actual reference car in connection with the manufacture, sale, advertising and distribution of the Licensed Products during the Term.

7.) **TRADEMARK AND COPYRIGHT NOTICES:**

The Licensee shall be required to place appropriate trademark and copyright notices on the Licensed Products. Licensee shall be permitted to place the name REVELL-MONOGRAM ® and/or the designation " © 2004 REVELL-MONOGRAM All rights reserved" on the box in which the licensed products are contained. Items (such as box art) submitted for approval to Licenser shall be deemed approved if no response is received within thirty (30) days. Licenser legal notice will be as follows:

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8.) **PAYMENTS AND STATEMENTS:**

All royalty payments due the Licenser, hereunder, shall be submitted to the Licenser on a quarterly basis at the following address:

Supercar Collectibles, Ltd  
11760 Justen Circle – Unit E  
Maple Grove, MN 55369

EIN#

41 - 1846539

Licensee shall submit a quarterly reporting for each three-month period after the end of the applicable period. All payments shall be accompanied by a statement in reasonable detail demonstrating the computations and amounts used in computing the royalty payments remitted with the statement. It should be understood that until the amounts covered by the royalty advance are exceeded, the statements will not be accompanied by a corresponding payment.

9.) **TECHNICAL ASSISTANCE:**

The Licensor agrees to provide the Licensee with access to the vehicles (if available) indicated in this contract for the purposes of authentic product research.

10.) **APPROVALS:**

Licensee agrees to submit copies of the decal art and box art to Licensor for approval prior to the first production run of this item.

11.) **ENTIRE AGREEMENT:**

This agreement contains the full and complete understanding between the parties hereto and supersedes all prior understanding, whether written or oral, pertaining to the subject matter hereof and cannot be modified except by written agreement signed by the parties hereto.

12.) **INDEMNIFICATION:**

- a.) Licensor agrees to indemnify and save harmless Revell-Monogram, LLC from and against claims, demands, damages, costs and attorney's fees involving any breach of the representations and warranties contained herein and from any claim alleging that the Licensed Property infringes the rights of a third party. If any third person brings a lawsuit or makes a claim alleging that Revell-Monogram's use of the Licensed Property constitutes an infringement of the rights of such third party, Revell-Monogram shall give the Licensor notice of such claim or lawsuit. Licensor shall defend any such lawsuit or claim, and any and all expenses thereof and all liabilities resulting therefrom shall be borne solely by Licensor. After notice has been received by Revell-Monogram, Revell-Monogram shall be entitled to escrow all royalties accrued thereafter to defray costs incurred and damages assessed until such time that the infringement charge is settled or otherwise disposed of. Any excess in such escrow account shall be paid to the Licensor. Such indemnity shall be in addition to any other remedy available to Revell-Monogram.
- b.) Revell-Monogram agrees to indemnify and save harmless Licensor and undertakes to defend itself and Licensor against and hold Licensor harmless from any claim, suites, loss and damage, including Licensor's reasonable and necessary attorneys' fees arising out of any allegedly unauthorized use of any patent, precess, idea, method or



device by Revell-Monogram in connection with the Licensed Products or arising out of any other alleged action by Revell-Monogram including any claim, suit, loss and/or damage arising out of alleged defects in the Licensed Products.

c.) Any disputes to be mitigated by arbitration, will be conducted through American Arbitration Association, in Cook County Illinois.

13.) **INSURANCE:**

Licensee will obtain and maintain at its own cost Commercial General Liability Insurance, including but not limited to products, completed operations and contractual liability, in amounts not less than One Million Dollars (\$1,000,000.00) per occurrence.

14.) **FINISHED PRODUCT:**

24 pieces of the finished item will be provided for personal promotion use. Licenser can purchase additional quantities at the listed "A" price.

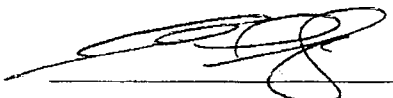
15.) **SELL-OFF PERIOD:**


Upon termination or expiration of this agreement, Licensee shall have a period of one hundred eighty (180) days within which to dispose of any existing inventory and thereafter Licensee shall discontinue the use of the trademarks on such licensed products.

We look forward to working with you during the terms of this agreement.

Sincerely,

**REVELL-MONOGRAM, LLC**

  
\_\_\_\_\_  
FOR REVELL-MONOGRAM, LLC  
4/27/04  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
Supercar Collectibles, Ltd  
4/29/04  
\_\_\_\_\_  
DATE

REVELL INC  
1850 Howard, Unit A  
Elk Grove Village, IL 60007  
Phone: (847) 758-3200  
Fax: (847) 758-3204



## RENEWAL OF LICENSE AGREEMENT

**THIS AGREEMENT** is dated this 10<sup>th</sup> day of October, 2008 and is by and between Supercar Collectibles, Ltd ("Licensor") and Revell Inc, 1850 Howard Unit A, Elk Grove Village, IL 60007 ("Licensee").

### **WITNESSETH:**

**WHEREAS**, on or about April 19, 2004, Licensor and Licensee entered into an agreement (the "Agreement") under which Licensee was granted the non-exclusive, worldwide right to use the Yenko name, logos and designs as they relate to the licensed product property owned by the Licensor, to describe unassembled model hobby kits of any specific scale manufactured and sold by Licensee; and

**WHEREAS**, the parties desire to extend the terms of the agreement through December 31, 2008, as provided in the Renewal of License Agreement dated January 28, 2008.

**NOW, THEREFORE**, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **EXTENSION OF TERM.** The term of the Agreement is hereby extended through December 31, 2010.

2. **DEFINITION OF PROPERTY.** The term "Property", as set forth in the Agreement, shall mean the Yenko Camaro manufactured by the Licensee, and specifically approved by Licensor during the term of the Agreement. The agreement is hereby amended to specifically add "Yenko Nova" owned by the Licensor and manufacture by Licensee.

(#4237)

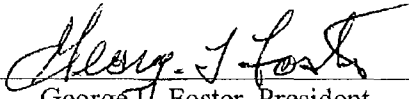
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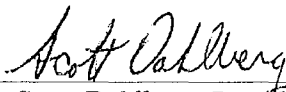
4. **SELL-OFF PERIOD.** Upon termination or expiration of this agreement, Licensee shall have a period of one hundred eighty (180) days within which to dispose of any existing inventory and thereafter Licensee shall discontinue the use of the trademarks on such licensed products

*Yenko/Supercar Collectibles – Renewal License Agreement*

Other than as specifically set forth in this Renewal agreement dated October 10, 2008, the Agreement remains unchanged and of full force and effect; any conflict between the Agreement and this Renewal shall be controlled by this Renewal License Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Renewal Agreement to be signed on the day and year first above written.

By:   
George J. Foster, President  
Revell Inc

By:   
Scott Dahlberg, President  
Supercar Collectibles, Ltd

## TRADEMARK ASSIGNMENT

WHEREAS, Supercar Collectable Limited, a corporation having an address of 11760 Justen Circle, Unit E, Maple Grove, Minnesota 55369 ("Supercar") has adopted, used, and is using the trademark YENKO in connection with toy cars and is the owner of common law rights in such trademark as well as United States Patent and Trademark Registration No. 2,049,857 for the mark YENKO for "toy cars" (hereinafter collectively referred to as the "Trademark Rights");

WHEREAS, General Marketing Capital, Inc., a corporation having an address of 18460 Gothard Street, Huntington Beach, CA 92648 ("GMCI"), is desirous of acquiring ownership of all right, title and interest in and to the Trademark Rights, including United States Trademark Registration 2,049,857, together with the goodwill of the business symbolized thereby and all rights associated therewith, including all rights of priority stemming therefrom and any and all rights and causes of action that exist in relation thereto, including any and all rights to sue for and collect damages for past infringement thereof.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Supercar has assigned and does hereby assign to GMCI, all right, title and interest in and to the Trademark Rights, including United States Trademark Registration 2,049,857, together with the goodwill of the business symbolized thereby and all rights associated therewith, including all rights of priority stemming therefrom and any and all rights and causes of action that exist in relation thereto, including any and all rights to sue for and collect damages for past infringement thereof.

IN TESTIMONY WHEREOF, Supercar hereunto sets its hand and seals this 9 day of September, 2010.

  
 Scott Dahlberg, President


State of Minnesota       )  
                                   ) ss.:  
 County of Hennepin    )

On this 9<sup>th</sup> day of September, 2010, before me, Haris Isic, a Notary Public in and for the State and County aforesaid, personally appeared Scott Dahlberg, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument and acknowledged the same to be his/her/their free act and deed.

SEAL



HARIS ISIC  
 NOTARY PUBLIC - MINNESOTA  
 MY COMMISSION EXPIRES 01/31/15

  
 Notary Public